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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,915	02/13/2001	Kenneth G. Noggle	00-003	3193
7590 11/18/2004 BURNS, DOANE, SWECKER & MATHIS, LLP P.O. BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER ROSS, DANA	
			ART UNIT 3722	PAPER NUMBER

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/782,915

Applicant(s)

NOGGLE, KENNETH G.

Examiner

Dana Ross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-32 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is a final rejection on Application No. 09/782,915 in response to the amendment filed on 29 October 2004.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,391,023 (Basteck) in view of U.S. Pat. No. 3,703,117 (Matthews).

In regard to claim 1, Basteck teaches a cavity 31 (col. 2, lines 60-63, fig. 2) in a holder 12 (col. 2, lines 26-29, fig. 2) at least a portion of the cavity 31 contiguous with the pocket 17 containing the insert 18 (col. 2, lines 60-63, fig. 2), with an intermediate component 32 separate from the holder 12 and disposed within the cavity 31, the intermediate component 32 comprising an external peripheral surface 33 (col. 2, lines 60-63) and at least one expansion mechanism 44 (col. 3, lines 16-18), the external peripheral surface 33 engaging the insert 18 at the contiguous portion (col. 3, lines 11-14) and a wedging device 37 engaging the intermediate component 32 (col. 3, lines 1-7) such that actuation of the wedging device 37 results in expansion of the intermediate component 32 in a direction substantially parallel to a desired direction of the adjustment of the insert 18 (col. 3, lines 16-30).

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Basteck teaches a problem with unintentional loosening of the wedging device 37 and resolving the loosening through the use of a viscous tincture having a locking action (col. 3, lines 45-51).

Basteck does not disclose the wedging device "movably attached directly" to the holder 12.

Matthews teaches an expansion mechanism in a cavity of a tool holder 4, the mechanism includes an expansion device made of arms 22 and 20, a wedging device 26 (fig. 2).

In regard to claim 2, Basteck also teaches the expansion mechanism 44 comprises slots 47 and a tapered portion disposed in a first region (fig. 2, col. 3, lines 14-16) of an internal peripheral surface 35 of the intermediate component 32 (fig. 2, col. 2, lines 63-66).

In regard to claim 3, Basteck also teaches the wedging device 37 comprises a conical wedge 39 (fig. 2, col. 3, lines 1-7).

In regard to claim 4, Basteck teaches all aspects of the claimed invention as described in the above claim 1 rejection. Basteck also teaches the wedging device 37 includes an adjustment screw 38 threadingly engaged to the intermediate component (fig. 2, col. 3, lines 1-7). Basteck discloses the claimed invention except for the adjustment screw threadingly engaging the holder.

Matthews teaches the adjustment screw 26 threadingly engaging the holder 4 (fig. 2).

In regard to claim 5, Basteck also teaches the intermediate component 32 defines a portion of the pocket 17 side of the pocket 17 (fig. 2, col. 2, lines 60-63).

In regard to claim 6, Basteck also teaches the intermediate component 32 further comprises opposite end faces facing generally parallel to a direction of movement of the wedging device 37, each end face being intersected by at least one expansion element 44 (fig. 2, col. 3,

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lines 1-37). It is further noted that Matthews teaches an expansion element that runs the length of intermediate component, the expansion element intersecting the top face and bottom face.

In regard to claim 7, Basteck also teaches the actuation of the wedging device 37 causes expansion of the intermediate component 32 along substantially the entire length of the component 32 (fig. 2, col. 3, lines 1-37).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wedging device and holder as taught by Bastek to include the wedging device movably attached directly to the holder as taught by Matthews to threadedly engage the holder for the purpose of ensuring that the cutting insert is effectively wedged-locked against accidental removal from the tool holder and to provide maximum strength and rigidity (see Matthews, col. 1, lines 47-51 and col. 4, lines 4-5, for example).

***Allowable Subject Matter***

4. Claims 20-32 are allowed.
5. The following is an examiner's statement of reasons for allowance: Reasons for Allowance can be found in the Detailed Office Action of May 6, 2003.

***Response to Arguments***

6. Applicant's arguments filed 29 October 2004 have been fully considered but they are not persuasive.

Applicant asserts that "the wedging assembly 20, 26 of Matthews performs the same function as Basteck's clamping jaw 19, not the function of Basteck's wedging assembly 32, 37" and that that is the reason it would not be obvious to modify Basteck in view of Matthews.

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Examiner notes that Basteck was used to teach the structure of the Applicant's wedging assembly (32, 37 of Basteck). Matthews was not used to teach the structure of Applicant's wedging assembly, but instead was used to teach that it is well known in the art to have a wedging device (26 of Matthews) that entered an intermediate component (20 of Matthews) separate from the holder and disposed in a cavity with the wedging device (26 of Matthews) "movably attached directly to the holder" (fig. 2 of Matthews).

Examiner disagrees with Applicant's assertion that "the ability to achieve sensitive accurate adjustment of the cutting... would be destroyed if Basteck's wedging device were directly attached to the holder". Applicant asserts that "the head of the wedging device would apply a downward axial force to the stop pin, tending to axially displace the stop pin downwardly".

Applicant appears to be arguing a scenario where Basteck's wedge device is screwed to the point that the intermediate component of Basteck is pushed beyond its intended use of adjusting an insert.

Basteck teaches that there is a problem with the wedging device coming loose. Matthews teaches it is well known in the art to extend a wedging device into the tool holder to resolve this issue. Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the wedging device and holder as taught by Basteck to include the wedging device movably attached directly to the holder as taught by Matthews to threadedly engage the holder for the purpose of ensuring that the cutting insert is effectively wedged-locked against accidental removal from the tool holder and to provide maximum strength and rigidity.

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It appears that Applicant is asserting that Basteck's wedge device "could" be axially displaced beyond that required for the insert adjustment. Examiner holds that this is not necessarily true, and furthermore holds that the length of the wedging device and connection to the holder as taught by Matthews (for resolving of the loose wedging device problem mentioned by Basteck) would not be of an incompatible size to the intermediate component for displacement of the insert as designed.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Ross whose telephone number is 571-272-4480. The examiner can normally be reached on Mon-Thurs.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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